

HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAMES B. TURNER and JOANNE K. LIPSON,
husband and wife,

Plaintiffs,

v.

FRASER'S BOILER SERVICE, INC., et al.,

Defendants.

NO. 2:13-CV-01747

DEFENDANT LOCKHEED SHIPBUILDING
COMPANY'S MOTION FOR LEAVE TO
FILE TWO MOTIONS IN LIMINE

NOTE ON MOTION CALENDAR:
Friday, November 1, 2013

Defendant, Lockheed Shipbuilding Company ("Lockheed Shipbuilding"), moves this Court for leave to file a second motion *in limine*. Lockheed Shipbuilding proposes to file: (1) a general motion *in limine* addressing disparate issues; and (2) a second motion *in limine* addressing only the exclusion and/or limitation of expert testimony.

The local rules require a party to file its motions in limine as a single motion, "[e]xcept upon a showing of good cause." LCR 7(d)(4). Good cause exists here because asbestos litigation, by its very nature, relies heavily on voluminous documentation and multiple expert opinions. As explained in Lockheed Shipbuilding's pending motion for summary judgment, Plaintiffs do not have any direct evidence of what Plaintiff James Turner III's father actually did when he allegedly performed work at Lockheed Shipbuilding's premises. Plaintiffs' entire case against Lockheed

1 Shipbuilding will thus be built on expert opinions. As such, Lockheed Shipbuilding expects to raise
2 many issues regarding the admissibility of Plaintiffs' expert testimony. Resolution of these issues in
3 of trial advance will allow the trial to proceed more efficiently.

4 The need for lengthy motions *in limine* is typical of asbestos litigation. For example, the last
5 asbestos case, of which Lockheed Shipbuilding is aware, to have been tried to verdict in the
6 Western District of Washington is *Barabin v. Albany International Corp. et al.*, Cause No. 28:1332.
7 In that case, Defendant Scapa Dryer Fabrics filed four motions *in limine* totaling 58 pages. *See*
8 Cause No. 28:1332, Dkt. #174, 178, 181, 194. Defendant AstenJohnson Inc. filed four motions *in*
9 *limine* totaling 76 pages. *See* Cause No. 28:1332, Dkt. #186, 188, 190, 192. Each defendant also
10 filed multiple reply briefs, which are no longer allowed in support of motions *in limine*. LCR
11 7(d)(4). Even with this extensive briefing, questions regarding the admissibility of multiple expert
12 opinions resulted in a reversal and rehearing *en banc* by the Ninth Circuit. *See Barabin v.*
13 *AstenJohnson, Inc.*, 700 F.3d 428 (9th Cir. 2012), *rehearing en banc granted*, 710 F.3d 1074 (9th
14 Cir. 2013). Lockheed Shipbuilding does not seek to file such voluminous motions *in limine*, but
15 merely requests permission to file two motions limited to eighteen (18) pages each.

16 In the alternative, if the Court prefers a single motion, then Lockheed Shipbuilding submits
17 that the same goals could be accomplished by granting leave to file an over-length motion *in limine*,
18 limited to 36 pages, pursuant to LCR 7(f).

19 DATED this 1st day of November, 2013.

20 OGDEN MURPHY WALLACE, P.L.L.C.

21 By /s/ Jeffrey D. Dunbar

22 Jeffrey D. Dunbar, WSBA #26339

23 Attorneys for Defendant

24 Lockheed Shipbuilding Company